

Remarks

The present Amendment is made in response to the Office Action dated June 1, 2006, and identified as Paper No. 20060526. Claims 1-17 are pending.

In the Action, the Examiner objected to the drawings as lacking a few reference numerals. The Examiner also rejected claim 6 under 35 U.S.C. § 112, ¶ 2 for the use of the term “said chamber.” The Examiner further rejected claims 1-3 and 5-6 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,919,085 to Alliott (“*Alliott*”) and by U.S. Publication No. 2004/0188339 A1 to Murkute et al. (“*Murkute*”).

I. Objections to the Drawings

With respect to the objections to the drawings as lacking various reference numerals, interior floors 32 was previously included in Figure 1. Applicant has amended the drawings to include reference numerals 24, 60, and 84 that were identified by the Examiner as having been omitted.

II. Rejection of Claim 6 under 35 U.S.C. § 112, ¶ 2

Claim 6 has been amended to depend from a prior claim that recites an antecedent basis for “said chamber.”

III. *Alliott* does not disclose each and every limitation of claim 1 as required for a rejection under 35 U.S.C. § 102

A rejection under 35 U.S.C. § 102 requires that the reference include each and every limitation recited in the claims. MPEP § 2131 (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference”). The invention recited in claim 1 calls for “at least one candle housing

removeably positioned in said rack.” This express claim element and associated limitation is absent from the cited reference.

In particular, *Alliott* discloses a vertical leaf filter tank having a casing, a door permitting access to the inside of the casing, and a series of leaf filters suspended in the casing by a header. *Alliott* does not disclose the claimed candle housing positioned in the rack as it instead discloses a series of leaf filters that are bolted directly to a header. As a result, the reference does not anticipate claim 1.

IV. *Murkete* Does Not Qualify as Prior Art

Murkete was filed as a non-provisional application on March 5, 2004, almost two months after the present application was filed. Although Applicant disagrees that a section 102(e) reference should be accorded the effective filing date of a provisional application, *Murkete* claims priority to two provisional applications, one of which was filed *after* the filing date of the present invention. As a result, the Examiner must establish that the single earlier filed provisional application to which *Murkete* claims priority “properly supports the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph” to state a *prima facie* case of anticipation. MPEP § 2136.03(III). A review of the provisional applications to which *Murkete* claims priority reveals that the disclosure relied on by the Examiner to reject claims 1-3 and 5-6 was first presented in the provisional application filed on February 17, 2004, not the provisional filed in 2003. As the earliest effective filing date of *Murkete* is therefore *after* the filing date of the present application, *Murkete* is not available as a reference under 35 U.S.C. § 102(e) and the rejections must be withdrawn.

Reply to Office Action dated November 13, 2006
Application No. 10/776,836
Amendment dated March 13, 2007

A Petition for a One Month Extension and authorization to charge any applicable fees to Deposit Account No. 50-1546 is submitted herewith.

In view of the foregoing amendments as supported by these remarks and accompanying documents, the Examiner's reconsideration and allowance of the present application is respectfully requested. If the Examiner believes that a telephone conference will expedite handling of the present application, please contact the undersigned at (315)218-8515.

Respectfully submitted,

By: 
George R. McGuire
Reg. No. 36,603

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BOND, SCHOENECK & KING, PLLC
One Lincoln Center
Syracuse, New York 13202-8530
(315)218-8515